

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

CHARLES WARNER §
v. § CIVIL ACTION NO. 5:02cv150
REGINALDO STANLEY, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Charles Warner, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Warner complained about the medical care which he received while incarcerated in the Texas Department of Criminal Justice, Correctional Institutions Division. The Magistrate Judge ordered the Defendants to answer the lawsuit, and issued a Report on January 31, 2005, recommending that the Defendant Rochelle McKinney be dismissed from the lawsuit, to which Warner did not object.

Following this, Warner and the remaining Defendants filed motions for summary judgment. On January 14, 2005, the Magistrate Judge issued a Report recommending that Warner's motion for summary judgment be denied and that the Defendants' motion for summary judgment be granted, and the lawsuit dismissed with prejudice. Warner received a copy of this Report on or before July 25, 2005, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal

conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge and has determined that this Report is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's motion for summary judgment is DENIED and that the Defendants' motion for summary judgment is GRANTED. It is further

ORDERED that the above-styled lawsuit be and hereby is DISMISSED with prejudice. It is further

ORDERED that to the extent that the Plaintiff raised state-law claims of negligence under the supplemental jurisdiction of the Court, the statute of limitations on such claims be and hereby is SUSPENDED from the date of filing of the lawsuit until thirty days after the final judgment in this case is entered. Finally, it is

ORDERED that any and all motions which may be pending in this cause are hereby DENIED.

SIGNED this 23rd day of August, 2005.

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE